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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,822	06/07/2000	Tatsuya Kubota	450108-4457.1	9634

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NEW YORK, NY 10151

EXAMINER
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NGUYEN, HANH N

ART UNIT	PAPER NUMBER
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2668

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/589,822

Applicant(s)

KUBOTA ET AL.

Examiner

Hanh Nguyen

Art Unit

2668

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/2/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

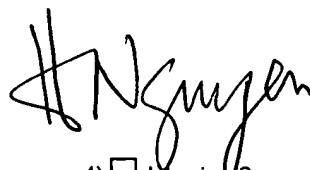
**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



HANH NGUYEN  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/7/00.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because the word “ praivate” in fig.5 should be corrected as “private” due to misspelling.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 USC 103(a) as being unpatentable over Adams ( US Pat. 6,044,396) in view of Metz (US Pat. 5,666,293).

In claim 8, Adams discloses a data multiplexing device (multiplexer 208, fig.4) comprising a plurality of buffer memories which store a plurality of packet data strings constituting data elements (application buffer 402 storing application data streams and video buffers 400 storing video streams, see fig.4, col.4, lines 35-40); a switching means / switch control means ( a selector 404, fig.4) for switching the buffer memories (selecting one of the buffer memories 400 for outputting to output buffer 406, col.4, lines 40-45) and time division multiplexes the plurality of packet data strings (selecting data from buffers 400 in round robin fashion to ensure fair allocation, see col.4, lines 65-67) to provide an output by sequentially time division switching the buffer memories with the switching means (selector 404 reads video packet from each video buffers 400 and application data from application buffer 402 in a round robin fashion for transmission to output buffer 406, see col.5, lines 1-5); a switch control means (selector 404) which selects, according to an input rate for the packet data strings, the plurality of buffer memories switchable by the switch means (selector 404 first selects video buffer 400 for transmission because they carry video streams which is higher priority than application data, see col.4, lines 52-65). Adams does not disclose the input rate is used as an index in reference to an amount of encoded bits generated by an encoding controller. Metz et al. discloses, in fig.2, data from a software server 12 is encoded at 1.5 Mbits/s, program guide audio/video data from NTSC source 13 is encoded at 4.5 Mbits/s and normal video programs is encoded at 6 Mbits/s ( see col.10, lines 12-25 & col.14, line 66 to col.15, line 7). Therefore, it would have been obvious to one ordinary skilled in the art apply the method of encoding data at different rates of Metz into

Adams in order for the selector 404 to select data, video, audio programs in reference to a required encoding rates. The motivation is to enhance quality of data transmission in a shared channel economically. Video data that requires fast motion will need high encoding bits while program guides that requires slow motions will need slow encoding rate.

In claims 9, as described in parent claim 8, Adams discloses the switching means excluding a buffer memory for buffering lower priority information ( application data in the application buffer 402 is lower priority than video streams, therefore, the video buffer 400 is selected first, see col.4, lines 52-65).

Claims 10, 11 are rejected under 35 USC 103(a) as being unpatentable over Adams (Pat. 6,044,396) in view of Metz (US Pat. 5,666,293), and further in view of Hamilton et al.( Pat. 5,579,055).

In claims 10 and 11, Adams does not disclose the switch control means determines to exclude the packet data containing EMM data, EPG data among said plurality of buffers. Hamilton discloses EPG database manager 44 ( switch control means) stores received EPG data into EPG database 46 for later recall (exclude lower priority buffer memory, see col.9, line 65 to col.10, line 5). Therefore, it would have been obvious to one ordinary skilled in the art to modify the Adams 's system by applying the teaching of Hamilton in order to exclude lower priority buffer memories storing EPG and EMM data.

***Response to Arguments***

Applicant's arguments with respect to claims 8-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Klopper et al. (US pat. 5,790,171) ;

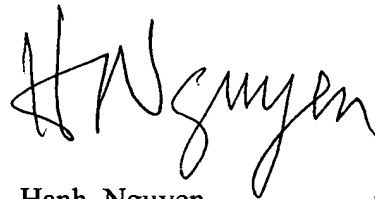
Arazi et al. (US pat. 5966120).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The

examiner can normally be reached on Monday-Friday from 8AM to 5PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on 571 272 3197. The fax phone number for the organization where this application or proceeding is assigned is 5712738300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hanh Nguyen

**HANH NGUYEN  
PRIMARY EXAMINER**

Primary Examiner